

# Pixel Perfect DigiMEDIA & Pixel Perfect Servers Web Hosting

:: Last updated 7/4/2006 ::

## Terms Of Service TOS & Acceptable Use Policy AUP - Hosting Client Agreement

Pixel Perfect DigiMEDIA services may only be used for lawful purposes. Transmission of any material in violation of International, Federal or State regulation is prohibited. This includes but is not limited to: material legally judged to be threatening or obscene, or material protected by trade secret laws or terrorism related sites of any kind including text or graphics.

If you are found in violation of the Pixel Perfect DigiMEDIA Hosting Acceptable Use Policy and Terms of Use. Your account will be terminated without notice and you will forfeit all of the money that has been paid to Pixel Perfect DigiMEDIA.

Examples of content that is not acceptable on Pixel Perfect DigiMEDIA Servers: "Pirated software" or "WareZ", "Hacker programs and/or archives", "IRC Bots", "Gambling Related", "Copyrighted Mp3's", cgi-based message boards.

You specifically agree to indemnify and hold Pixel Perfect DigiMEDIA harmless from any claims resulting from a breach of these terms, and/or their use of the service, which damages another.

WareZ - Includes pirated software, ROMS, emulators, phreaking, hacking, password cracking, IP spoofing, etc., and encrypting of any of the above. Also includes any sites which provide "links to" or "how to" information about such material.

### **WE DO NOT HOST ADULT SITES.**

Adult Content or links to Adult Content are not permitted on Pixel Perfect DigiMEDIA servers.

### **Spam**

SPAM in any shape or form is NOT permitted and is grounds for immediate account termination. Mailing lists via a mailing list manager are acceptable as long as the list are OPT-IN list that people have signed up for. Spam complaints from other users will not be tolerated.

### **IRC and Chat Rooms**

Internet Relay Chat (IRC) traffic is not permitted on our servers in any of its many forms including, but not limited to: bots and IRC servers. Chat rooms may be allowed on per use basis, so please ask one of our support staff before setting one up. (Some cgi/perl based chat rooms over utilize the server processor.)

### **Web Site Hosting And Email**

We make no representation and give no warranty as to the accuracy or quality of information received by any person via the Server and we shall have no liability for any loss or damage to any data stored on the Server.

You shall effect and maintain adequate insurance coverage in respect of any loss or damage to data stored on the Server.

You represent, undertake and warrant to us that you will use the Web Site allocated to you only for lawful purposes. In particular, you represent, warrant and undertake to us that you will not use the Server in any manner which infringes any law or regulation or which infringes the rights of any third party, nor will you authorize or permit any other person to do so.

You shall not post, link to or transmit: (a) Any material, which is unlawful, threatening, abusive, malicious, defamatory, obscene, pornographic, blasphemous, profane or otherwise objectionable in any way. (b) Any material containing a virus or other hostile computer program. (c) Any material which constitutes, or encourages the commission of, a criminal offence or which infringes any patent, trade mark, design right, copyright or any other intellectual property right or similar rights of any person which may subsist under the laws of any jurisdiction.

You shall keep secure any identification, password and other confidential information relating to your account and shall notify us immediately of any known or suspected unauthorized use of your account or breach of security, including loss, theft or unauthorized disclosure of your password or other security information.

You shall observe the procedures, which we may from time to time prescribe and shall make no use of the Server,

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which is detrimental to our other customers.

You shall procure that all mail is sent in accordance with applicable legislation (including data protection legislation) and a secure manner.

In the case of an individual User, you warrant that you are at least 18 years of age and if the User is a company, you warrant that the Services will not be used by anyone under the age of 18 years.

Any access to other networks connected to Pixel Perfect DigiMEDIA must comply with the rules appropriate for those other networks.

While we will use every reasonable endeavor to ensure the integrity and security of the Server, we do not guarantee that the Server will be free from unauthorized users or hackers and we shall be under no liability for non-receipt or misrouting of email or for any other failure of email.

#### Intellectual Property Rights

You shall obtain any and all necessary consents and clearances to enable you lawfully to make use of all and any intellectual property rights through the Services, including without limitation, clearance and/or consents in respect of your proposed domain name.

#### Service Availability

We shall use our reasonable endeavors to make available to you at all times the Server and the Services but we shall not, in any event, be liable for interruptions of Service or down-time of the Server.

We shall have the right to suspend the Services at any time and for any reason without notice, but if such suspension lasts or is to last for more than 30 days you will be notified of the reason.

The Services provided to you hereunder and your account with us cannot be transferred or used by anyone other than you. No more than one login session under any one account may be used at any time by you. User programs may be run only during login sessions. If your account is found to have been transferred to another party, or shows other activity in breach of this sub clause, we shall have the right to cancel the account and terminate the Services and/or this Agreement immediately.

#### Termination Without in any way limiting our ( Pixel Perfect DigiMEDIA ) rights.

If a site violates these terms in any way, shape, or form, the site will be deleted from our network. If 2 violations occur within a 90 day period the site will be blocked from our network. Our warning schedule is below.

First Warning: When you (or your clients) upload illegal content you (or your clients) are knowingly violating the terms of service. Therefore there is no need for a first warning. When you upload illegal files which violate these terms you know what you are doing is against our policies.

Second Warning: There is no second warning, the domain is deleted. You may recreate the domain, however if illegal content is found on this domain again the domain will be blocked from our servers.

Questionable Situations: If we find content that is questionable and may or may not violate the terms of service we will contact you. An example of a situation like this is a band hosting their own music on our servers. However, you can avoid this step if you notify us. If you are a band or if you are planning to upload a large amount of files that are questionable please notify us before you upload so we are aware of the situation. This will keep everyone happy.

If you fail to pay any sums due to us as they fall due, we may suspend the Services and/or terminate this Agreement forthwith without notice to you.

If you break any of these terms and conditions, we may terminate this Agreement forthwith upon written notice.

If you are a company and you go into insolvent liquidation or suffer the appointment of an administrator or

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administrative receiver or enter into a voluntary arrangement with your creditors, we shall be entitled to terminate this

Agreement forthwith without notice to you.

On termination of this Agreement or suspension of the Services we shall be entitled immediately to block your Web Site and to remove all data located on it. We shall be entitled to delete all such data but we may, at our discretion, hold such data for such period as we may decide to allow you to collect it at your expense, subject to payment in full of any amounts withstanding and payable to us. We shall further be entitled to post such notice in respect of the non-availability of your Web Site as we think fit. If your hosting account is suspended for late or non-payment, a \$50.00 reactivation charge is due and payable along with all past due hosting fees.

Accounts may be cancelled by the user with a 7 day notice. Pixel Perfect DigiMEDIA reserves the right to cancel any account with or without notice.

#### Legal

Pixel Perfect DigiMEDIA expects that its subscribers who provide Internet services to others will comply fully with all applicable laws concerning the privacy of on-line communications. A subscriber's failure to comply with those laws will violate Pixel Perfect DigiMEDIA policy. Finally, Pixel Perfect DigiMEDIA wishes to emphasize that in signing the service agreement, subscribers indemnify Pixel Perfect DigiMEDIA and it's partners for any violation of the service agreement, law, or Pixel Perfect DigiMEDIA policy, that results in loss to Pixel Perfect DigiMEDIA and it's partners or the bringing of any claim against Pixel Perfect DigiMEDIA by any third-party. This means that if Pixel Perfect DigiMEDIA is sued because of a subscriber's or customer of a subscriber's activity, the subscriber will pay any and all damages awarded against Pixel Perfect DigiMEDIA, plus costs and reasonable attorneys' fees.

#### Limitation Of Liability

All conditions, terms, representations and warranties relating to the Services supplied under this Agreement, whether imposed by statute or operation of law or otherwise, that are not expressly stated in these terms and conditions including, without limitation, the implied warranty of satisfactory quality and fitness for a particular purpose are hereby excluded.

Our total aggregate liability to you for any claim in contract, tort, negligence or otherwise arising out of or in connection with the provision of the Services shall be limited to the charges paid by you in respect of the Services, which are the subject of any such claim.

In any event no claim shall be brought unless you have notified us of the claim within 6 months of it arising.

In no event shall we ever be liable to you for any loss of business, contracts, profits or anticipated savings or for any other indirect or consequential or economic loss whatsoever.

#### Notices

Any notice to be given by either party to the other may be sent by either email, fax or recorded delivery to the address of the other party as appearing in this Agreement or ancillary application forms or such other address as such party may from time to time have communicated to the other in writing, and if sent by email shall unless the contrary is proved be deemed to be received on the day it was sent or if sent by fax shall be deemed to be served on receipt of an error free transmission report, or if sent by recorded delivery shall be deemed to be served two days following the date of posting.

#### Payment and/or Suspension of Hosting for late or non-payment

All payments must be in US Dollars. If your check is returned by the bank as unpaid for any reason, you will be liable for a "returned check" charge of \$30.00.

All charges payable by you for the Services shall be in accordance with the scale of charges and rates published from time to time by us on our web site and shall be due and payable in advance of our service provision.

Without prejudice to our other rights and remedies under this Agreement, if any sum payable is not paid on or before the due date, we shall be entitled forthwith to suspend the provision of Services to you.

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Your Billing is based on the date that you signed up with us. (ex. If you joined us on June 25th, 2000 Your Credit Card will be charge on the 25th of every month)  
If your hosting account is suspended for late or non-payment, a \$50.00 reactivation charge is due and payable along with all past due hosting fees.

### Headings

Headings are included in this Agreement for convenience only and shall not affect the construction or interpretation of this Agreement.

### Entire Agreement

These terms and conditions together with any documents expressly referred to in them, contain the entire Agreement between us relating to the subject matter covered and supersede any previous Agreements, arrangements, undertakings or proposals, written or oral: between us in relation to such matters. No oral explanation or oral information given by any party shall alter the interpretation of these terms and conditions. In agreeing to these terms and conditions, you have not relied on any representation other than those expressly stated in these terms and conditions and you agree that you shall have no remedy in respect of any misrepresentation, which has not been made expressly in this Agreement. Misuse Of Resources Including but not limited to employing applications which consume excessive CPU time. Chat/IRC, web proxy and mailing list scripts are not allowed on our network under any circumstances. Streaming media can be a drain on web server resources and as such is not allowed. CGI based message forums which use flat file databases are often found to use excessive system resources, to avoid disappointment please use a PHP/ASP message forum.

If you are unsure about content you intend to place on our network, please check with us before you do. We reserve the right to determine what constitutes acceptable use. We may amend these terms of service with or without notice.

If you have any questions please e-mail us at [support@pixelperfectdigimedia.com](mailto:support@pixelperfectdigimedia.com)

**Print and Send To - Pixel Perfect DigiMEDIA - 1880 Ash St. - North Bend, OR 97459 - Web Hosting**

Updated July 4th, 2006

Business Name \_\_\_\_\_

Business URL web address http:// \_\_\_\_\_

Client Name \_\_\_\_\_

Client Phone Number \_\_\_\_\_

Street \_\_\_\_\_ City \_\_\_\_\_ ST \_\_\_\_\_ Zip \_\_\_\_\_

Signed \_\_\_\_\_ Dated \_\_\_\_\_

I have read and agree to the above Terms of Service TOS & Acceptable Use Policy AUP